

TENTATIVE RULINGS for CIVIL LAW and MOTION February 19, 2010

Pursuant to Yolo County Local Rules, the following tentative rulings will become the order of the court unless, by 4:00 p.m. on the court day before the hearing, a party requests a hearing and notifies other counsel of the hearing. To request a hearing, you must contact the clerk of the department where the hearing is to be held. Copies of the tentative rulings will be posted at the entrance to the courtroom and on the Yolo Courts Website, at www.yolo.courts.ca.gov. If you are scheduled to appear and there is no tentative ruling in your case, you should appear as scheduled.

Telephone number for the clerk in Department Fifteen: (530) 406-6941

TENTATIVE RULING

Case: **Earth Savers, Inc. v. Earthsavers Erosion Control, LLC**
Case No. CV CV 09-2133

Hearing Date: **February 19, 2010** **Department Fifteen** **9:00 a.m.**

The Application for Writ of Possession After Hearing is **DENIED**. (Code Civ. Proc., §§ 512.010 et seq.) Plaintiffs failed to demonstrate that it is more probable than not that they will ultimately obtain a judgment for possession of the property; and they failed to file the required undertaking. (Code Civ. Proc. §§ 512.060(a) & 515.010, subd. (b); Declaration of Doug Bailey ¶¶ 1-24.)

Plaintiffs' demurrer to the cross-complaint is **DROPPED**. Cross-complainant filed a first amended complaint on February 2, 2010. (Code Civ. Proc., 472.)

If no hearing is requested, this tentative ruling is effective immediately. Plaintiff shall serve a copy of this tentative ruling on defendants. No formal order pursuant to California Rules of Court, rule 3.1312 or further notice, except as provided herein, is required.

TENTATIVE RULING

Case: **Northern California Collection Service, Inc. v. Russell**
Case No. CV G 09-2489

Hearing Date: **February 19, 2010** **Department Fifteen** **9:00 a.m.**

Plaintiff's motion for an earnings withholding order is **DENIED WITHOUT PREJUDICE**. (Fam. Code, §§ 902 et seq.; Code Civ. Proc., 706.109.)

If no hearing is requested, this tentative ruling is effective immediately. Plaintiff shall serve a copy of this tentative ruling on defendants. No formal order pursuant to California Rules of Court, rule 3.1312 or further notice, except as provided herein, is required.

TENTATIVE RULING

Case: **The Humane Society of the United States v. The Regents of the
University of California
Case No. CV PT 08-2337**

Hearing Date: **February 19, 2010** **Department Fifteen** **9:00 a.m.**

Petitioner's objections to the Special Master's report: Counsel are directed to appear and to be prepared to discuss the issues identified below.

The Court shares the petitioner's concern about preserving the record in this matter. The Court is inclined to send the banker's box of documents it has received from the Special Master back to the Special Master so that the Special Master can (i) have the documents re-Bates stamped in sequential order, in the order they currently appear in, in the ten labeled folders, (ii) have the documents secured together by file fastener or similar means, and (iii) amend the Special Master's report to identify the Bates stamp numbers for all documents in each folder and the Bates stamp numbers of documents that show "influence" and "no influence," all of the above to be accomplished at the respondent's cost.

The Court would like to hear other suggestions for adequately preserving the record.

Counsel shall be prepared to discuss whether a log showing the names of each folder in the banker's box produced for *in camera* review and the Bates stamp numbers for the documents in each folder should be produced to the petitioner. Respondent must cite authority for withholding such information from the petitioner.

Respondent shall produce those documents described in the "slip sheets." Respondent shall promptly send such documents to the Special Master so that these documents may be made a part of Folder 2 in the banker's box and be re-Bates-stamped in sequential order. Respondent shall promptly provide biographical information for those individuals referenced in the omitted "slip sheet" documents if these individuals are not already included in the "Biographical Index" contained in Folder 1 in the banker's box. Any new biographical information shall promptly be provided to the Special Master, made a part of Folder 1 in the banker's box, and be re-Bates-stamped in sequential order. The Court, not the Special Master, will review the omitted "slip sheet" documents and determine whether such documents are exempt from disclosure. Respondent must ensure that the *evidence* before the Court supports any claim of privilege or lack of relevance.

Petitioner's motion to compel the production of unredacted documents: This motion relates to the 357 pages of documents that the respondent has produced in response to the petitioner's California Public Records Act requests. The Court has not previously ruled on the petitioner's request for unredacted documents.

In its opening brief, the petitioner states that it provided the Court with “samples of the redactions” that are the subject of its motion. (Opening brief filed on December 3, 2009, page 4, lines 2-5.) Petitioner shall file and serve a supplemental opening brief, specifying by Bates stamp number all pages of documents that are the subject of its motion to compel. Petitioner shall use the Bates stamp numbers shown on Exhibits 7 and 8 of the Declaration of Peter J. Petersan filed on November 24, 2008.

Respondent shall promptly submit for *in camera* review to the Court unredacted copies of the documents identified in the petitioner’s supplemental opening brief. Respondent shall file and serve a supplemental opposition brief, identifying all bases for exemption for each redaction that is the subject of the petitioner’s motion to compel. Any ground for exemption that is not stated shall be deemed waived. Respondent must ensure that the *evidence* before the Court supports any claim of exemption.

The Court shall set a briefing schedule for the filing of unredacted documents and supplemental opening, opposition and reply briefs and set a further hearing date for the petitioner’s motion to compel.